

BakerHostetler

Baker&Hostetler LLP

45 Rockefeller Plaza
New York, NY 10111

T 212.589.4200
F 212.589.4201
www.bakerlaw.com

Seanna R. Brown
direct dial: 212.589.4230
sbrown@bakerlaw.com

June 15, 2016

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, NY 10004-1408

Re: Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC, Adv. Pro. No. 08-01789 (SMB)

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as Trustee for the substantively consolidated SIPA liquidation proceedings of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff. We write to request permission from the Court to extend the discovery period in the pending profit withdrawal proceeding to permit the Trustee to take a meaningful deposition of Ms. Annette Bongiorno, on or about July 8, 2016.

As this Court is aware, discovery in the profit withdrawal proceedings closed on June 13, 2016 (though the deposition of Bernard Madoff was scheduled by Ms. Chaitman, counsel for certain claimants, for June 15, 2016). The Trustee attempted to obtain the testimony of Ms. Bongiorno on June 6, 2016. At that time, however, Ms. Bongiorno asserted her rights under the Fifth Amendment and declined to provide any testimony on issues related to profit withdrawals.

Counsel for Ms. Bongiorno has since informed the Trustee that (i) Ms. Bongiorno is now willing to provide testimony and (ii) she possesses meaningful information regarding profit withdrawal transactions. Accordingly, the Trustee contacted opposing counsel seeking their consent to re-schedule the deposition for the week of July 5, 2016. By email dated June 14, 2016, Mr. Kirby opposed an extension of the discovery period to obtain Ms. Bongiorno's testimony.

Honorable Stuart M. Bernstein
June 15, 2016
Page 2

The Trustee believes that the narrow extension requested is both necessary and appropriate and will not prejudice the claimants represented by Mr. Kirby. Ms. Bongiorno's counsel has confirmed that she possesses relevant information regarding profit withdrawal transactions, which information this Court previously directed the Trustee to obtain. Ms. Bongiorno's testimony could provide valuable assistance to this Court in resolving the issues surrounding the treatment of profit withdrawals at BLMIS. Further, a short extension of the discovery period will not prejudice the Participating Claimants. This is particularly true because, by email to Trustee's counsel dated June 14, 2016, Mr. Kirby requested the claimants have until September 30, 2016 to file their brief on the profit withdrawal issue. A brief three-week extension of the discovery period to obtain Ms. Bongiorno's testimony on or around July 8 will have no impact on Mr. Kirby's preferred briefing schedule.

Accordingly, the Trustee respectfully requests that this Court permit a meaningful deposition of Ms. Bongiorno to go forward on or around July 8. Should the Court wish to schedule a hearing on the matter, the Trustee respectfully requests that the matter be heard as soon as possible to allow for adequate time to coordinate the deposition with the prison and permit counsel (including Ms. Bongiorno's counsel and any counsel for Participating Claimants) to make travel arrangements.

Respectfully submitted,

/s/ Seanna R. Brown

Seanna R. Brown

cc: Helen Chaitman, Esq.
Richard Kirby, Esq.
David J. Sheehan, Esq.
Amy E. Vanderwal, Esq.